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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.38 OF 2007
IN
TESTAMENTARY PETITION NO.315 OF 2007

Nafis Akhtar Mohammad Moosa Khan & anr.. Applicant
vs

The Regional Transport Officer,
Mumbai (Central) & 1 anr. Defendants

Ms.Vaishali Thorat for Applicant
CORAM : S.J.VAZIFDAR, J
DATED : 6th July, 2007

P.C.

1. In this petition for probate, the petitioner has taken out the present Notice of Motion for an order directing respondent no. 1 Regional Transport Officer to transfer Janseva Motor Training School to the name of the widow of the deceased Smt.Shahiva Mohammad Moosa Khan and for an order restraining respondent nos. 2 and 3 from obstructing the petitioners from carrying on the business of motor training school. The petitioners are two of the three sons of the deceased. The third son is one Wasim. He has not been impleaded in this proceeding. The petitioners shall be at liberty to implead the said Wasim either as a petitioner or as a respondent within four weeks from today.

2. The deceased left behind him his last will and

testament under which he has bequeathed his business premises and all vehicles to his said three sons equally. The will further provided that the said sons will be the sole owners of the motor training school with all tenancy rights, furniture and goodwill to use the licences, and vehicles. It appears that respondent no. 1 under its rules transfers the licence only in the name of the widow of the deceased. Be that as it may, the petitioners have no objection to the same being done although it is their contention that the licence ought to be transferred in their name.

3. However, the said Wasim has not been impleaded. It is made clear that he should also be entitled to the benefit of this order or under an act done pursuant to this order if he so desires.

4. Respondent nos. 2 and 3 are the children of the deceased from the pre-deceased wife. Under the will, no rights have been granted in their favour. The respondents have not filed any affidavit in reply though served.

5. In the circumstances, Notice of Motion is made absolute in terms of prayer clauses (a) and (b).